

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IAN WAGNER,

Defendant.

4:20CR3099

NOTICE OF INTENT TO INTRODUCE
EVIDENCE PURSUANT TO FEDERAL
RULE OF EVIDENCE 404(b)(2)

Comes now the United States of America, by and through the undersigned attorneys, and herby provides notice of its intent to introduce evidence pursuant to Federal Rule of Evidence 404(b)(2) in its case against Defendant Ian Wagner.

1. Defendant is charged with two counts of abusive sexual conduct, in violation of 18 U.S.C. §§ 2244(a)(2), 2244(b). These charges allege that Defendant knowingly engaged in sexual contact with another person who was at the time incapable of appraising the nature of the conduct and physically incapable of declining participation in, and communicating an unwillingness to engage in, the sexual contact (Count One), and knowingly engaged in and caused sexual contact with another person without that person's permission (Count Two). Defendant's alleged unlawful sexual contact involved touching, directly and through the clothing, the victim's inner thigh with the intent to abuse, humiliate, harass, degrade, and arouse and gratify the sexual desires of any person.
2. Defendant is also charged with one count of indecent exposure and public masturbation, in violation of 49 U.S.C. § 46506(2) (Count Three). This charge alleges that Defendant committed an act of obscene and indecent exposure of his genitals and engaged in masturbation in a public place.

3. The charged conduct occurred while Defendant was in an airplane that was in flight over the District of Nebraska.
4. Defendant has a history of engaging in public masturbation. Over multiple years, the Fort Wayne, Indiana police department has filed several reports documenting complaints made by witnesses to Defendant's conduct. In each prior incident, Defendant was caught exposing his genitals and publicly masturbating. None of those incidents resulted in an arrest or criminal charges.
5. The above-described acts, which the Government plans to prove through witness testimony, is relevant evidence of Defendant's common plan or scheme, intent, and identity in connection with Count Three.

Respectfully submitted this 5th day of January 2021,

BRIAN C. RABBITT
Acting Assistant Attorney General

JOSEPH P. KELLY
United States Attorney

By: s/Jamie Perry
Jamie B. Perry
MD Bar No: 1012160031
Trial Attorney
U.S. Dept. of Justice, Criminal Division
Human Rights and Special Prosecutions
1301 New York Avenue, Northwest
Washington, D.C. 20530
(202) 307-3262
Jamie.Perry@usdoj.gov

By: s/ Tessie Smith
Tessie L. Smith
NE Bar No. 25828
Assistant United States Attorney
U.S. Attorney's Office - Lincoln
100 Centennial Mall North
Suite 487, Federal Building
Lincoln, NE 68508
(402) 437-5399
Tessie.Smith@usdoj.gov